

Part 3. Community Right to Know.

§ 95-208. Community information on hazardous chemicals.

(a) Any person in North Carolina may request in writing from the employer a list of chemicals used or stored at the facility. The request shall include the name and address of the person making the request and a statement of the purpose for the request. If the person is requesting the list on behalf of or for the use of an organization, partnership, or corporation, he shall also disclose the name and business address of such organization, partnership, or corporation. The request may include, at the option of the employer, a statement to the effect that the information will be used only for the purpose stated. The employer shall furnish to the person making the request a list containing, at a minimum, all chemicals included on the Hazardous Substance List, the class of each chemical as defined in G.S. 95-191(a)(2), and an SDS for each chemical for which an SDS is available and is requested. Whenever an employer has withheld a chemical under the provisions of G.S. 95-197 from the information provided under G.S. 95-208, the employer must state that the information is being withheld and, upon request, must provide the SDS for the chemical. Additional information may be furnished to the person making the request at the option of the employer. The employer shall provide, at a fee not to exceed the cost of reproducing the materials, the materials requested within 10 working days of the date the employer receives the written request for information.

(b) If the employer fails or refuses to provide the information required under subsection (a) of this section, the person requesting the information may request in writing that the Commissioner of Labor review the request. The Commissioner of Labor may conduct an investigation in the same manner as provided in G.S. 95-195(b). Following the investigation, the Commissioner shall make appropriate findings. Either the employer or the person making the initial request may request an administrative hearing pursuant to Chapter 150B of the General Statutes. This request for an administrative hearing shall be submitted to the Commissioner of Labor within 30 days following the Commissioner making his findings. The Commissioner of Labor shall within 30 days of receiving the request hold an administrative hearing to consider the request for information under subsection (a) of this section. This hearing shall be held as provided for in G.S. Chapter 150B, Article 3. If the Commissioner of Labor finds that the request complies with the requirements of subsection (a) of this section, the Commissioner of Labor shall direct that the employer provide to the person making the request a list containing, at a minimum, all chemicals used or stored at the facility included on the Hazardous Substance List, the class of each chemical as defined in G.S. 95-191(a)(2), and an SDS for each chemical for which an SDS is available and is requested and may in his discretion assess civil penalties as provided in G.S. 95-195(c); provided that it shall be a defense to such disclosure if the employer proves that the information has been requested directly or indirectly by, or in behalf of, a competitor of the employer, or that such information is a Hazardous Substance Trade Secret, or that the request did not comply with the requirements of subsection (a) of this section.

(c) Any order by the Commissioner of Labor under subsection (b) of this section shall be subject to judicial review as provided under G.S. Chapter 150B, Article 4. (1985, c. 775, s. 1; 1987, c. 827, s. 1; 2017-211, s. 14(h).)